

From: Tim O'Reilly
To: Microsoft ATR
Date: 12/9/01 7:16pm
Subject: Microsoft Settlement

I want to let you know that I have serious concerns about the proposed settlement of the Microsoft case. It does little or nothing to impede Microsoft's continued abuse of its monopoly position, and in fact includes provisions that will potentially give Microsoft even greater power. There is so little to like in this settlement, and so much to dislike, that it hardly bears detailed comment.

I am a well known high-tech publisher. My books cover both Microsoft and non-Microsoft technologies. I understand Microsoft's position that they remain vulnerable to new technologies that may disrupt their monopoly, but I don't buy it. Yes, they are now competing for new markets in the next generation of internet applications, and they don't hold all the cards that they held at their peak. But they still have many unfair advantages, and every indication that they intend to use them to destroy both competitors and an open market.

I am particularly concerned about Microsoft's attacks on free and open source software, and the fact that the settlement does little to protect open source developers, who compete with Microsoft in many major markets (for example, Apache is Microsoft's biggest competitor in the web server market), but are not commercial entities protected at all by the settlement.

In addition, I am extremely concerned that Microsoft has been allowed to destroy competitors such as Netscape, to undermine Sun's Java, and to suffer no real penalties. No action by the Justice Department will restore Netscape or the competitive health of the web browser business, but at the very least, Microsoft ought to be forced to pay a significant settlement to web browser and server vendors who were harmed by their actions.

In addition, my ideal settlement would require full advance disclosure of all proprietary Microsoft file formats (since they use their control over data formats to force application lock-in), and open source code for all portions of applications that read or write files in those data formats. We don't need source code to all of Windows or Microsoft Office--just those parts that are used to enforce user lock-in. And this source code needs to be completely free and in the open, not in some restricted release to Microsoft approved vendors!

However, if you do go through with the settlement, it is essential that the people who are set to watch over Microsoft be convinced Microsoft critics, not apologists for the company. I'd love to see Larry Lessig, who raised so many Microsoft hackles when he was proposed as a special

master in the case, put on them as a full time watchdog!

Microsoft is a great company, but they have broken the law, and they need to be restrained.

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Tim O'Reilly @ O'Reilly & Associates, Inc.
1005 Gravenstein Highway North, Sebastopol, CA 95472
+1 707-829-0515, FAX +1 707-829-0104
tim@oreilly.com, <http://www.oreilly.com>

CC: tim